

## REMARKS

Claims 1-29 remain in this application. Applicants respectfully traverse this election requirement as improper, but provisionally elect Species II, as represented by Figures 4 and 5, in order to advance the prosecution of this case.

## ELECTION/RESTRICTIONS

On page 2 of the Office Action mailed July 19, 2004, Examiner stated:

This application contains claims directed to the following patentably distinct species of the claimed invention:\*\*\*

- Species I, as represented by fig. 2, 3
- Species II, as represented by fig. 4, 5
- Species III, as represented by fig. 6

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Currently, none of the claim(s) appear to be generic.

As explained below, Applicants' election requires the examination of Claims 1-29.

However, Applicants believe that an examination of all of the identified Species would not impose an undue burden on the Examiner. Applicants therefore respectfully request reconsideration and withdrawal of the election requirement.

Contrary to Examiner's assertion, Applicants submit that Claims 1-9, 13-14, 15-23, and 27-29 are generic to both Species I (Figures 2 and 3) and Species II (Figures 4 and 5). Furthermore, all of Claims 1-29 can be applied to the embodiment shown in Species II (Figures 4 and 5). For example, all elements of Claim 1 appear in Figures 2, 3, 4, and 5:

- "an end roller" is labeled with numeral **122** in Figures 2 and 3 and numeral **222** in Figures 4 and 5;
- "a first conveyor, wherein said first conveyor translates about said end roller, thereby forming a convex terminal end" is labeled with numeral **120** in Figures 2 and 3 and numeral **240** in Figures 4 and 5;

- “a second conveyor having a curved path, wherein said curved path has an essentially horizontal axis of rotation, and further wherein said curved path defines a concavity” is labeled with numeral **130** in Figures 2 and 3 and numeral **230** in Figures 4 and 5; and
- the requirement, “wherein said convex terminal end of said first conveyor is positioned in a nested arrangement with said concavity, thereby defining a channel for product to pass therethrough and turn over,” is satisfied by the embodiments shown in Figures 2, 3, 4, and 5.

Thus, Claim 1 is generic to Species I and Species II.

Even if Applicants’ claims were restricted to Species II, as defined by Examiner, all of Claims 1-29 should be examined, as all claims are readable upon the general embodiment exemplified but not limited to the device shown in Figures 4 and 5. Applicants note, however, that not every embodiment of a species or the general invention need be illustrated. It should therefore be recognized that not every embodiment of the provisionally-elected Species II, as discussed in the written specification, is illustrated in Figures 3 and 4, nor is it so required.

In light of the above, Applicants respectfully request that Examiner withdraw the Election/Restriction requirement.

### **CONCLUSION**

A First Office Action on the merits is now respectfully awaited. Applicants respectfully request that Examiner withdraw all rejections and/or election/restriction requirements with regard to the above-referenced claims in reliance on one or more of the grounds submitted by Applicants.

If there are any outstanding issues that Examiner feels may be resolved by way of a telephone conference, Examiner is cordially invited to contact William S. Wang at (972) 367-2001.

The Commissioner is hereby authorized to charge any additional payments that may be due or credit any overpayment to Deposit Account 50-0392.

Respectfully submitted,

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**Certificate of Mailing**

I hereby certify that the foregoing Response to Office Action is being deposited with the United States Postal Service via express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 17, 2004.

Name: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Katie B. Jones", written over a horizontal line.

Katie B. Jones